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ATTORNEY GENERAL OPINION NO. 89- 63

The Honorable Gayle Mollenkamp
State Representative, One Hundred Eighteenth District
HC2, Box 5
Russell Springs, Kansas 67755-0005

Re: Taxation--Property Valuation, Equalizing
Assessments, Appraisers and Assessment of Property;
Statewide Reappraisal--Duties and Authorities of
Property Valuation and County and District
Appraisers; Methods of Establishing Valuations;
Pasture and Rangeland

Synopsis: K.S.A. 1988 Supp. 79-1476 requires the director of
property valuation to develop a classification
system for all land devoted to agricultural use
based on criteria established by the United States
department of agriculture soil conservation
service. Land is classified according to "quality"
insofar as it is grouped by predicted production
capability. The value of a particular tract of
land may be further adjusted by the local appraiser
to reflect adverse conditions peculiar to that
tract. Cited herein: K.S.A. 1988 Supp. 79-1476;
Kan. Const., Art. 11, §§1,12.

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Dear Representative Mollenkamp:

You have requested our opinion regarding the valuation of land
devoted to agricultural use, particularly pasture and
rangeland, for purposes of assessment. Specifically you

question whether it is appropriate to classify these types of real property according to "quality."

Article 11, sections 1(b)(1)(B) and 12 of the Kansas Constitution authorize the valuation of land devoted to agricultural use on the basis of its agricultural income or productivity, actual or potential. K.S.A. 1988 Supp. 79-1476 implements these provisions:

"[v]aluations shall be established for each parcel of land devoted to agricultural use upon the basis of agricultural income or productivity attributable to the inherent capabilities of such land in its current usage or, in the case of such land which is subject to the federal conservation reserve program, in its usage immediately prior to being subject to such program, under a degree of management reflecting median production levels in the manner hereinafter provided. A classification system for all land devoted to agricultural use shall be adopted by the director of property valuation using criteria established by the United States department of agriculture soil conservation service. Productivity of land devoted to agricultural use shall be determined for all land classes within each county or homogeneous region based on an average of the eight calendar years immediately preceding the calendar year which immediately precedes the year of valuation, at a degree of management reflecting median production levels. The director of property valuation shall determine median production levels based on information available from state and federal crop and livestock reporting services, the soil conservation service, and any other sources of data that the director considers appropriate. . . .

"The net rental income normally received by the landlord from pasture or rangeland within each county or homogeneous region shall be used as the

basis for determining agricultural income from such land. The net rental income from pasture and rangeland which is normally received by the landlord shall be determined by deducting expenses normally incurred from the gross income normally received by the landlord. Commodity prices, crop yields and pasture and rangeland rental rates and expenses shall be based on an average of the eight calendar years immediately preceding the calendar year which immediately precedes the year of valuation. Net income for every land class within each county or homogeneous region shall be capitalized at a rate determined to be the sum of the contract rate of interest on new federal land bank loans in Kansas on July 1 of each year averaged over a five-year period which includes the five years immediately preceding the calendar year which immediately precedes the year of valuation, plus a percentage not less than .75% nor more than 2.75%, as determined by the director of property valuation. . . ."

Pursuant to K.S.A. 1988 Supp. 79-1476 the director of property valuation is required to develop a classification system for all land devoted to agricultural use. The statute does not except pasture and rangeland from this provision. The land is to be classified using criteria established by the United States department of agriculture soil conservation service (SCS). SCS criteria consists of soil types with the same or similar production capability assigned to a specific productivity group. Thus, in a sense, the "quality" of the soil is the basis used for determining classification under the statute. Soil types which are capable of producing a higher yield of crops or sustaining more livestock generally generate more income and thus are more valuable.

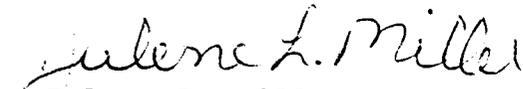
Once the director of property valuation has determined median production levels and calculated net rental income normally received by the landlord from pasture or rangeland within each classification, a typical value per acre of land is determined by capitalizing the net income. These values are the starting point for local appraisers in valuing individual parcels. The values assigned to each classification of land assume normal production capabilities; adverse influences

which may be present on a particular tract of land, such as frequent flooding, excessive canopy cover or lack of water, are not reflected in these typical values. The local appraiser is responsible for making adjustments in value to reflect adverse conditions severe enough to effect the productive capability, or rental rate, of the land. See Kansas Department of Revenue, Division of Property Valuation, Procedures for Identification and Classification of Agricultural Land 33 (Feb. 15, 1988). Thus, you are correct in noting that lack of or inadequate water supply should be addressed for each individual parcel.

In our opinion, the procedure developed by the director of property valuation for valuing pasture and rangeland, as described above, is within the statutory guidelines. It appears to adequately derive median values for various types of land. Fine tuning by the local appraiser for specific parcels should achieve a fairly accurate use value. See Nelson, Differential Assessment of Agricultural Land in Kansas, 25 U.Kan. L.Rev. 215, 220, 221, 230 (1977); Proposal No. 10, Report on Kansas Legislative Interim Studies to the 1975 Legislature 88-99 (1974).

Very truly yours,


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RTS:JLM:jm